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IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-6033

SHARON ROE AND DOROTHY POE, ON BEHALF OF THEMSELVES AND OTHERS SIMILARLY SITUATED,

Appellants,

v.

NICHOLAS NORTON, INDIVIDUALLY, AS COMMISSIONER OF WELFARE OF THE STATE OF CONNECTICUT, AND ON BEHALF OF OTHERS SIMILARLY SITUATED,

Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

SUPPLEMENTAL BRIEF OF APPELLANTS

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On January 4, 1975, President Ford signed into law Public Law (P.L.) 93-647, the "Social Services Amendments of 1974." One of the major thrusts of the Act's extensive amendments to the Social Security Act was to strengthen enforcement of support orders with the aim

of reducing the cost of federally supported categorical welfare programs[1]. The child support provisions include additional requirements for state Aid to Families With Dependent Children (AFDC) plans claiming federal sharing, including 1) that the states pay 40% of the first $50.00 per month recovered from absent parents to recipient families in addition to their present grants, 2) that such families assign their right to receive such support to the states, and 3) that parents would, as a condition of eligibility, be required to "cooperate" with the state's efforts to locate and secure support from, absent parents.

Appellants submit that P.L. 93-647 Part B strengthens and clarifies their contention that the Connecticut procedure and sanctions embodied in Connecticut General Statutes (C.G.S.) Section 52-440b are in basic conflict with the Social Security Act. In Connecticut the mother of an illegitimate child receiving assistance may be incarcerated not just lose her eligibility for AFDC payments, if she refuses to cooperate in the establishment of her child's paternity. And in Connecticut, the effect, carefully avoided by the new amendments[2], is often to deprive children, as well as mother, of much needed benefits, See, e.g. Case AA (Appendix to Children's Brief, 7a, 8a). Accordingly,

[1]Part B of P.L. 93-647 and the "NOLEO" provisions, 42 U.S.C. Sections 602(a)(17) and (18), which are to be supplanted by Part B, are included in the Appendix to this Brief.

[2]P.L. 93-647, Part B (establishing a new Part D to Title IV of the Social Security Act, Sections 451-460 of that Act, and a new Section 6305 to the Internal Revenue Code. Also amending Section 402 of the Social Security Act).

appellant mothers have requested leave to file this short supplement to their Brief[3].

Part B of P.L. 93-647 deals with child support questions in several different ways. It permits utilization of the federal courts and the Internal Revenue Service for the enforcement and collection of child support under some circumstances, new I.R.C. Section 6305, new S.S.A. Section 460. It will require as a condition of receiving federal assistance in AFDC cases that the state have a state plan for child support which conforms with other requirements including 1) a statewide child support plan operated by a single state agency with state financial participation, new S.S.A. Sections 454(1)-(3), 2) diverting support payments

[3]The amendments also may raise some constitutional questions similar to those briefed by appellants in their principal brief: that the government, by requiring cooperation has impermissibly invaded an area of private decision-making and made unwarranted assumptions about the best interests of children, forcing revelation of the most private of sexual matters, and discriminations against welfare recipients because of their poverty. It may be notable that nothing in P.L. 93-647 discriminates, as C.G.S. Section 52-440b does, on the basis of illegitimacy or sex. This Brief will argue only that C.G.S. Section 52-440b, with its quasi-criminal sanctions, has been rejected by Congress as a method of encouraging recoupment of welfare monies from the fathers of illegitimates or of protecting their interests, that the amendment of the Social Security Act only emphasizes its conflict with the Connecticut statute.

New Section 402(a)(26)(B) may well moot, after its effective date of July 1, 1975, the statutory claims before the Court in *Lavine v. Shirley* No. 73-1095 (argued December 18, 1974). But the addition of Part B sharpens the differences between the several statutory arguments presented in the case at bar and those in *Lavine*.

made by an absent parent on behalf of an AFDC family to the State, new Section 454(6), 3) making resources available for enforcement of non-welfare connected support matters on a fee for service basis, new Section 454(6), 4) utilizing several sources, including a new federal Parent Locator Service, to locate absent parents, new Section 454(8), 5) extensive cooperation with courts, administrative agencies and other states, and 6) undertaking to determine and establish the paternity of illegitimate children receiving AFDC, new Section 454(4). Support obligations owed to state or federal governments are rendered nondischargeable in bankruptcy, new Section 454(b). And the new amendments mandate that 40% of the first $50.00 received by the state for the support of an AFDC child be distributed to the caretaker relative of such child, new Section 475(a)(1).

Finally, the amendments supplant existing "NOLEO" provisions and add three new requirements for approval of state AFDC plans:

> (25) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of aid shall furnish to the State agency his Social Security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ in the administration of such plan;
>
> (26) provide that, as a condition of eligibility for aid, each applicant or recipient will be required–
>
> (A) to assign the State any rights to support from any other person such applicant may have (i) in his own behalf or in behalf of any other family member for whom the applicant is applying for or

> receiving aid, and (ii) which have accrued at the time such assignment is executed,
>
> (B) to cooperate with the State (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for such applicant and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due such applicant or such child and that, if the relative with whom a child is living is found to be ineligible because of failure to comply with the requirements of this paragraph, any aid for which such child is eligible will be provided in the form of protective payments as described in section 406(b)(2) (without regard to subparagraphs (A) through (E) of such section); and
>
> (27) provide, that the State have in effect a plan approved under Part D and operate a child support program in conformit with such plan.

Congress did not, in making the changes found in P.L. 93-647 Part B, alter the basic purposes of the AFDC program:

> . . . encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each state to furnish financial assistance . . . to needy dependent children and the parents or relatives with whom they are living, to help strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection. (42 U.S.C., Section 601).

On the contrary, the Senate Finance Committee, from which the legislation emerged, reaffirmed that commitment:

The Committee believes that an AFDC child has a right to have its paternity ascertained in a fair and efficient manner unless identification of the father is clearly against the best interests of the child. Although this may in some cases conflict with what a social worker considers the mother's short term interests, the Committee feels that the child's right to support, inheritance, and to know who his father is deserves the higher priority. . . . the committee acknowledges that legislation must recognize the interest primarily at stake in the paternity action to be that of the child. Since the child cannot act on his own behalf in the short time after his birth when there is hope of finding its father, the Committee feels a mechanism should be provided to ascertain the child's paternity whenever it seems that this would both be possible and in the child's best interest. (S. Rept. 93-553, pp. 48-9, S. Rept. 93-1356, pp. 51-2).

A parsing of the available legislative history shows that Congress emphatically rejected the sanctions of C.G.S. Section 52-440b. In so doing, Congress emphasized the fundamental conflict between the Connecticut statute and the Social Security Act[4].

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[4] Although the Connecticut legislature convened after the signing of P.L. 93-647 and is in session at this writing, there is, to the best of counsel's information, no bill pending before it which would enact a new program to comply with P.L. 93-647 or to repeal or modify Section 52-440b. The time for submission of new bills has passed.

I.

LEGISLATIVE HISTORY OF P.L. 93-647.

What became P.L. 93-647 Part B was initially passed by the Senate as part of the 92nd Congress H.R. 1. It was eliminated by the conference, and therefore did not become law in the 92nd Congress. In the 93rd Congress, as in the 92nd, the impetus came from the Senate, notably two bills introduced before the Senate Finance Committee: S. 2081 and S. 1842. After hearings on September 25, 1973, the Finance Committee reported favorably on one of the two proposals, S. Rept. 93-553 November 21, 1973. The Committee had added it to a House-passed bill, H.R. 3153, and the Senate as a whole accepted it in that form, sending it to a conference from which it did not emerge.

Finding the conference on H.R. 3153 to be at an impasse, the House of Representatives passed H.R. 17045 on December 9, 1974. H.R. 17045 was very similar to the House version of H.R. 3153 and contained no part dealing with child support, 220 Cong. Rec. H. 11417. The focus of the House bills in both cases was on social service programs intended to strengthen and preserve the existing family. In favoring the House proposals, Representative McKay explained:

> Many present Government programs tend to fragment and undermine the family or at least give the family unit low priority. . . . Other social service programs put increasing emphasis on programs which take children out of the home. . . . These other programs which tend to weaken rather than strengthen the family can only be contraproductive. Many of our social problems

> are the result of weakened family ties and will not be solved without achieving quality family life. (220 Cong. Rec. H. 11417.)

The Senate then passed H.R. 17045 with a number of riders added, including what had originated as S. 2081, 220 Cong. Rec. S. 21768 (December 17, 1974). H.R. 17045, complete with amendments and after a hasty conference committee deliberation, was passed by both chambers and sent to the President for signature on December 20, 1974, the final day of the session. President Ford signed it into law on January 4, 1975[5].

Although, like many last minute legislative matters, the floor debates in Congress are far from clear, its basic intent is clear: to create a new program for the enforcement of child support obligations, principally orders, for the purpose of reducing both state and federal welfare budgets. See e.g. 220 Cong. Rec. S. 21733 (Senator Long), S. 21748-9 (Senator Montoya)

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[5]It is not, at this writing, certain that P.L. 93-647 will become effective July 1, 1975 as initially provided. In signing it into law, President Ford announced that he would propose changes to several parts, including the child support provisions, early in the current 94th Congress:

> In pursuit of [the objective of collection of child support payments from absent parents] certain provisions of this legislation go too far by injecting the Federal government into domestic relations. . . . They are also an undesirable addition to the workload of the Federal Courts, the Internal Revenue Service and the Department of Health, Education and Welfare Audit Agency. Further, the establishment of a parent locator service in the Department of H.E.W. with access to all Federal records raises serious privacy and administrative issues. (Vol. 11, Weekly Compilation of Presidential Documents No. 2 p. 20, January 13, 1975).

(December 17, 1974), Hearings on S. 1842, S. 2081, p. 62 (Senator Nunn, sponsor of S. 2081), p. 71 (Senator Bellmon, sponsor of S. 1842). In the House, which considered these provisions only on December 20, 1974 and very briefly then, the following exchange occurred, 220 Cong. Rec. H. 12589:

> *Rep. Abzug:* What I would like to see is some legislation without a punitive requirement on the mother of the child receiving AFDC to locate the runaway father. I am concerned because the history has been in those states which have sought to utilize these (sic) type of arrangements, that they have been utilized to deprive the people, mothers and children, of the money that they need to exist. . .
>
> *Rep. Pettis:* That is not the intent. In fact, this legislation will do more for mothers than is being done now, because the mothers are not going to be denied under this legislation anything to which they have been entitled up to now. We hope that if this legislation is passed many of these mothers will get far more money under the provisions of this act than they are now getting under the Social Services Act.

Representative Pettis was a member of the conference committee and these remarks occurred in the course of presentation of that committee's report, a report which had not been printed due to the last minute rush and which was, therefore, not available to House members. The sense of urgency which impelled the House to pass what became Part B. of P.L. 93-647, stemmed from its interest in other parts of the legislation, notably the social service amendments contained in Part A. Nor was there at any time any detailed discussion of these provisions in the Senate.

II.

PUBLIC LAW 93-647 EMPHASIZES THE CONFLICT BETWEEN CONNECTICUT GENERAL STATUTES SECTION 52-440b AND THE SOCIAL SECURITY ACT.

The legislative history outlined above reveals Congress' intent in passing P.L. 93-647 to be directly contrary to C.G.S. Section 52-440b. Congress corrected to some degree what Senator Long referred to as the "unconscionable failure" to provide welfare parents with a financial incentive to help track down deserting parents. And it decided that information needed to enforce support obligations may, at the same time, be induced from caretaker relatives by the comparatively mild sanction of threatened termination of parental welfare benefits, when combined with a financial incentive.

Congress stopped far short of the quasi-criminal sanctions found in the Connecticut statute. It rejected Senator Bellmon's bill, S. 1842, which provided criminal penalties against non-cooperating parents, sanctions very similar to those found in the Connecticut statute[6]. The difference between a criminal sanction and a purely civil loss of benefits is crucial. As the Court recognized in *Wyman v. James* 400 U.S. 309, 324, 27 L.Ed.2d 408, 418:

> Mrs. James has the "right" to refuse the home visit, but a consequence in the form of cessation

[6]Proposed S. 1842, Section 2031 is set out in full in the Appendix. Penalties were a fine of not more than $1000 or imprisonment for not more than one year. In the Connecticut statute they are $200 or one year.

> of aid . . . flows from that refusal. The choice is entirely hers.

And the Court distinguished *Camara v. Municipal Court* 387 U.S. 523, 18 L.Ed.2d 930 and *See v. City of Seattle* 387 U.S. 541, 18 L.Ed.2d 943 (1967) on the basis that the cessation of aid was not a sanction implicating the constitutional right in question, the privilege against self-incrimination:

> If a statute made her refusal a criminal offense, and if this case were one concerning her prosecution under that statute, Camara and See would have conceivable pertinency. (at 325).

And the Connecticut statute does not, on its face, give the "non-cooperating" mother even Mrs. James' choice. See e.g. *Commissioner v. Elizabeth Stone* (transcript reprinted in the Appendix to Brief of Amici).

Congress additionally took care to heed Secretary (of Health, Education and Welfare) Weinberger's warning that it should not terminate the child's AFDC benefits even if it chose to discontinue the parent for failure to cooperate with the state in pursuing the absent parent for support, Hearing Before the Committee on Finance, United States Senate, 93rd Congress 1st Session on S. 1842, S. 2081, pp. 81-82.[7] Congress additionally

[7]Unfortunately, Congress did not heed Secretary Weinberger's other concerns:

> Finally, I would suggest that the provision requiring mothers to cooperate in determining paternity and collecting child support be clarified so that the extent of cooperation States may require is explicitly stated and individual rights are protected. (Hearings at 82).

And it made such cooperation a mandatory federal condition of eligibility, rejecting Weinberger's request that it be left to state option, Hearings at 247.

carefully avoided the result of the Connecticut statute: that to avoid its quasi-criminal sanctions, mothers have declined to apply for or have removed themselves and their children from the rolls, thus depriving the children of much needed benefits.

Congress sought to accomplish its recoupment objective, recovery from legally liable parents of money contributed by the government to the support of dependent children and supervising relatives, in a manner consistent with the paramount goals of the AFDC program, quoted supra p. 4. The Connecticut statute, like the rejected S. 1842, directly undercuts that goal.

In new Section 402(a)(26) of the Social Security Act, Congress applied its chosen sanction for non-cooperation uniformly to all welfare recipients while the Connecticut statute singles out the weakest and most powerless group only, mothers of illegitimate children. Cf. *Rinaldi v. Yeager* 384 U.S. 305, 16 L.Ed.2d 577 (1962) and *James v. Strange* 407 U.S. 128, 32 L.Ed.2d 435 (1972).

Although the mandatory Parent Locator Service and use of federal records to search for such parents may appear to undercut 45 C.F.R. 205.50, mandating procedures which will not violate recipients right to privacy, it should be noted that Congress nowhere indicated any such intent, and that the privacy interests principally violated by those mechanisms are those of absent parents and not of recipients[8]. In contrast, the Connecticut statute operates directly to the detriment

[8] Also, while those provisions are not in issue here, it should be noted that they are the aspects which seemed particularly objectionable to President Ford and Secretary Weinberger.

of recipients right to privacy,[9] both in its procedures and substantively.

Additionally, the child support programs mandated by Congress in P.L. 93-647 require administration by a single state agency, while the Connecticut procedure utilized for Section 52-440b involves vast delegation of discretionary power to private attorneys, attorneys who are paid on a "contingent fee" basis, Appendix 82, 110, 115, 121-2. This administrative structure is in direct violation of the requirement that the program be administered by a single state agency.

Finally, and perhaps most significantly, the Senate Finance Committee reports make clear a Congressional intent not to pursue paternity actions where the acknowledgedly paramount interests of the particular child would be adversely affected, Ante, p. 4. It is precisely the absence of such history, either legislative or administrative, which grounds appellants' substantive attack on the Connecticut statute.

Thus it is clear that Congress, in enacting P.L. 93-647, decisively rejected the approach to recoupment from absent parents of welfare monies expended on their dependents which is embodied in C.G.S. Section 52-440b. Congress thus clarified and emphasized the

[9] See Appellants' Brief, pp. 18-20.

conflict which, appellant submits, had existed between the unusual and draconian Connecticut procedure and the provisions of the Social Security Act. A fortiori, then, C.G.S. Section 52-440b must be struck down.

Respectfully submitted,

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This is to certify that on the 14th day of February, 1975, copies of the foregoing Supplemental Brief and Appendix thereto were mailed postage prepaid to counsel of record: Carl Ajello, Attorney General, Michael Anthony Arcari, Assistant Attorney General, 90 Brainard Road, Hartford, Connecticut and Rosen and Dolan, Esqs. 265 Church Street, New Haven, Connecticut.

APPENDIX

1. The current "NOLEO" provisions, repealed effective July 1, 1975, provide:

42 U.S.C. Section 602 (S.S.A. Section 402) (a)(17)

(17) provide–

(A) for the development and implementation of a program under which the State agency will undertake–

(i) in the case of a child born out of wedlock who is receiving aid to families with dependent children, to establish the paternity of such child and secure support for him, and

(ii) in the case of any child receiving such aid who has been deserted or abandoned by his parent, to secure support for such child from such parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other states to obtain or enforce court orders for support, and

(B) for the establishment of a single organizational unit in the State agency or local agency administering the state plan in each political subdivision which will be responsible for the administration of the program referred to in clause (A):

42 U.S.C. Section 602 (S.S.A. Section 402) (a)(18)

(18) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the State agency in administering the program referred to in clause (17)(A), including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and the State agency or local agency administering the State plan;

2. The proposal to make non-cooperation a criminal offense, found in proposed S. 1842, provided:

> Sec. 2031. (a) If any child has been deprived of parental support or care by reason of the continued absence from the home of a parent and is a recipient of aid to families with dependent children under a State plan approved under Part A of title IV, it shall be the duty of any individual who is the relative with whom such child is living (within the meaning of 'relative with whom any dependent child is living', as defined in section 406(c)) promptly to disclose, to the local welfare office administering such plan for the area in which such individual resides, any information which such individual has regarding the identity, address, or place of employment of the parent of such child who, by reason of his continued absence from the home, has deprived such child of parental support or care.
>
> (b) Any individual, having a duty under subsection (a) to disclose information which he possesses and who willfully fails to disclose such information as provided in subsection (a), shall be fined not more than $1000 and imprisoned for not more than one year.

3. PUBLIC LAW 93-647 (as approved by both the Senate and the House of Representatives December 20, 1974, and signed by the President January 4, 1975). Part B includes all of the sections relevant to this case.

PART B—CHILD SUPPORT PROGRAMS

CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

In General

SEC. 101. (a) Title IV of the Social Security Act is amended by adding after part C the following new part:

"PART D—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

"APPROPRIATION

"SEC. 451. For the purpose of enforcing the support obligations owed by absent parents to their children, locating absent parents, establishing paternity, and obtaining child support, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part.

"DUTIES OF THE SECRETARY

"SEC. 452. (a) The Secretary shall establish, within the Department of Health, Education, and Welfare a separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall—

"(1) establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support as he determines to be necessary to assure that such programs will be effective;

"(2) establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part;

"(3) review and approve State plans for such programs;

"(4) evaluate the implementation of State programs established pursuant to such plan, conduct such audits of State programs established under the plan approved under this part as may be necessary to assure their conformity with the requirements of this part, and, not less often than annually, conduct a complete audit of the programs established under such plan in each State and determine for the purposes of the penalty provision of section 403(h) whether the actual operation of such programs in each State conforms to the requirements of this part;

"(5) assist States in establishing adequate reporting procedures and maintain records of the operations of programs established pursuant to this part in each State;

"(6) maintain records of all amounts collected and disbursed under programs established pursuant to the provisions of this part and of the costs incurred in collecting such amounts;

"(7) provide technical assistance to the States to help them establish effective systems for collecting child support and establishing paternity;

"(8) receive applications from States for permission to utilize the courts of the United States to enforce court orders for support against absent parents and, upon a finding that (A) another State has not undertaken to enforce the court order of the originating State against the absent parent within a reasonable time, and (B) that utilization of the Federal courts is the only reasonable method of enforcing such order, approve such applications;

"(9) operate the Parent Locator Service established by section 453; and

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"(10) not later than June 30 of each year beginning after December 31, 1975, submit to the Congress a report on all activities undertaken pursuant to the provisions of this part.

"(b) The Secretary shall, upon the request of any State having in effect a State plan approved under this part, certify the amount of any child support obligation assigned to such State to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954. No amount may be certified for collection under this subsection except the amount of the delinquency under a court order for support and upon a showing by the State that such State has made diligent and reasonable efforts to collect such amounts utilizing its own collection mechanisms, and upon an agreement that the State will reimburse the United States for any costs involved in making the collection. The Secretary after consultation with the Secretary of the Treasury may, by regulation, establish criteria for accepting amounts for collection and for making certification under this subsection including imposing such limitations on the frequency of making such certifications under this subsection.

"(c) (1) There is hereby established in the Treasury a revolving fund which shall be available to the Secretary without fiscal year limitation, to enable him to pay to the States for distribution in accordance with the provisions of section 457 such amounts as may be collected and paid (subject to paragraph (2)) into such fund under section 6305 of the Internal Revenue Code of 1954.

"(2) There is hereby appropriated to the fund, out of any moneys in the Treasury not otherwise appropriated, amounts equal to the amounts collected under section 6305 of the Internal Revenue Code of 1954, reduced by the amounts credited or refunded as overpayments of the amounts so collected. The amounts appropriated by the preceding section shall be transferred at least quarterly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"PARENT LOCATOR SERVICE

"SEC. 453. (a) The Secretary shall establish and conduct a Parent Locator Service, under the direction of the designee of the Secretary referred to in section 452(a), which shall be used to obtain and transmit to any authorized person (as defined in subsection (c)) information as to the whereabouts of any absent parent when such information is to be used to locate such parent for the purpose of enforcing support obligations against such parent.

"(b) Upon request, filed in accordance with subsection (d) of any authorized person (as defined in subsection (c)) for the most recent address and place of employment of any absent parent, the Secretary shall, notwithstanding any other provision of law, provide through the Parent Locator Service such information to such person, if such information—

"(1) is contained in any files or records maintained by the Secretary or by the Department of Health, Education, and Welfare; or

"(2) is not contained in such files or records, but can be obtained by the Secretary, under the authority conferred by subsection (e), from any other department, agency, or instrumentality, or the United States or of any State.

No information shall be disclosed to any person if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. The Secretary shall give priority to requests made by any authorized person described in subsection (c) (1).

"(c) As used in subsection (a), the term 'authorized person' means—

"(1) any agent or attorney of any State having in effect a plan approved under this part, who has the duty or authority under such plans to seek to recover any amounts owed as child support (including, when authorized under the State plan, any official of a political subdivision);

"(2) the court which has authority to issue an order against an absent parent for the support and maintenance of a child, or any agent of such court; and

"(3) the resident parent, legal guardian, attorney, or agent of a child (other than a child receiving aid under part A of this title) (as determined by regulations prescribed by the Secretary) without regard to the existence of a court order against an absent parent who has a duty to support and maintain any such child.

"(d) A request for information under this section shall be filed in such manner and form as the Secretary shall by regulation prescribe and shall be accompanied or supported by such documents as the Secretary may determine to be necessary.

"(e) (1) Whenever the Secretary receives a request submitted under subsection (b) which he is reasonably satisfied meets the criteria established by subsections (a), (b), and (c), he shall promptly undertake to provide the information requested from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States or of any State.

"(2) Notwithstanding any other provision of law, whenever the individual who is the head of any department, agency, or instrumentality of the United States receives a request from the Secretary for information authorized to be provided by the Secretary under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information requested is contained in any such files or records. If such search discloses the information requested, such individual shall immediately transmit such information to the Secretary, except that if any information is obtained the disclosure of which would contravene national policy or security interests of the United States or the confidentiality of census data, such information shall not be transmitted and such individual shall immediately notify the Secretary. If such search fails to disclose the information requested, such individual shall immediately so notify the Secretary. The costs incurred by any

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such department, agency, or instrumentality of the United States or of any State in providing such information to the Secretary shall be reimbursed by him. Whenever such services are furnished to an individual specified in subsection (c)(3), a fee shall be charged such individual. The fee so charged shall be used to reimburse the Secretary or his delegate for the expense of providing such services.

"(f) The Secretary, in carrying out his duties and functions under this section, shall enter into arrangements with State agencies administering State plans approved under this part for such State agencies to accept from resident parents, legal guardians, or agents of a child described in subsection (c)(3) and, after determining that the absent parent cannot be located through the procedures under the control of such State agencies, to transmit to the Secretary requests for information with regard to the whereabouts of absent parents and otherwise to cooperate with the Secretary in carrying out the purposes of this section.

"STATE PLAN FOR CHILD SUPPORT

"SEC. 454. A State plan for child support must--

"(1) provide that it shall be in effect in all political subdivisions of the State;

"(2) provide for financial participation by the State;

"(3) provide for the establishment or designation of a single and separate organizational unit, which meets such staffing and organizational requirements as the Secretary may by regulation prescribe, within the State to administer the plan;

"(4) provide that such State will undertake—

"(A) in the case of a child born out of wedlock with respect to whom an assignment under section 402(a)(26) of this title is effective, to establish the paternity of such child, and

"(B) in the case of any child with respect to whom such assignment is effective, to secure support for such child from his parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States, except that when such arrangements and other means have proven ineffective, the State may utilize the Federal courts to obtain or enforce court orders for support;

"(5) provide that, in any case in which child support payments are collected for a child with respect to whom an assignment under section 402(a)(26) is effective, such payments shall be made to the State for distribution pursuant to section 457 and shall not be paid directly to the family except that this paragraph shall not apply to such payments (except as provided in section 457(c)) for any month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A;

"(6) provide that (A) the child support collection or paternity determination services established under the plan shall be made available to any individual not otherwise eligible for such services upon application filed by such individual with the State, (B) an

application fee for furnishing such services may be imposed, except that the amount of any such application fee shall be reasonable, as determined under regulations of the Secretary, and (C) any costs in excess of the fee so imposed may be collected from such individual by deducting such costs from the amount of any recovery made;

"(7) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the agency administering the plan, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and the agency administering the plan;

"(8) provide that the agency administering the plan will establish a service to locate absent parents utilizing—

"(A) all sources of information and available records, and

"(B) the Parent Locator Service in the Department of Health, Education, and Welfare;

"(9) provide that the State will, in accordance with standards prescribed by the Secretary, cooperate with any other State—

"(A) in establishing paternity, if necessary,

"(B) in locating an absent parent residing in the State (whether or not permanently) against whom any action is being taken under a program established under a plan approved under this part in another State,

"(C) in securing compliance by an absent parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other State, and

"(D) in carrying out other functions required under a plan approved under this part;

"(10) provide that the State will maintain a full record of collections and disbursements made under the plan and have an adequate reporting system;

"(11) provide that amounts collected as child support shall be distributed as provided in section 457;

"(12) provide that any payment required to be made under section 456 or 457 to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child or children; and

"(13) provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating absent parents, establishing paternity, obtaining support orders, and collecting support payments.

"PAYMENTS TO STATES

"SEC. 455. From the sums appropriated therefor, the Secretary shall pay to each State for each quarter, beginning with the quarter com-

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mencing July 1, 1975, an amount equal to 75 percent of the total amounts expended by such State during such quarter for the operation of the plan approved under section 451 except that no amount shall be paid to any State on account of furnishing collection services (other than parent locator services) to individuals under section 451(6) during any period beginning after June 30, 1976.

"SUPPORT OBLIGATIONS

"SEC. 456. (a) The support rights assigned to the State under section 402(a)(26) shall constitute an obligation owed to such State by the individual responsible for providing such support. Such obligation shall be deemed for collection purposes to be collectible under all applicable State and local processes.

"(1) The amount of such obligation shall be—

"(A) the amount specified in a court order which covers the assigned support rights, or

"(B) if there is no court order, an amount determined by the State in accordance with a formula approved by the Secretary, and

"(2) Any amounts collected from an absent parent under the plan shall reduce, dollar for dollar, the amount of his obligation under paragraphs (1) (A) and (B).

"(b) A debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under the Bankruptcy Act.

"DISTRIBUTION OF PROCEEDS

"SEC. 457. (a) The amounts collected as child support by a State pursuant to a plan approved under this part during the 15 months beginning July 1, 1975, shall be distributed as follows:

"(1) 40 per centum of the first $50 of such amounts as are collected periodically which represent monthly support payments shall be paid to the family without any decrease in the amount paid as assistance to such family during such month;

"(2) such amounts as are collected periodically which are in excess of any amount paid to the family under paragraph (1) which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(3) such amounts as are in excess of amounts retained by the State under paragraph (2) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and

"(4) such amounts as are in excess of amounts required to be distributed under paragraphs (1), (2), and (3) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

"(b) The amounts collected as child support by a State pursuant to a plan approved under this part during any fiscal year beginning after September 30, 1976, shall be distributed as follows:

"(1) such amounts as are collected periodically which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(2) such amounts as are in excess of amounts retained by the State under paragraph (1) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and

"(3) such amounts as are in excess of amounts required to be distributed under paragraphs (1) and (2) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

"(c) Whenever a family for whom child support payments have been collected and distributed under the plan ceases to receive assistance under part A of this title, the State may—

"(1) continue to collect such support payments from the absent parent for a period of not to exceed three months from the month following the month in which such family ceased to receive assistance under part A of this title, and pay all amounts so collected to the family; and

"(2) at the end of such three-month period, if the State is authorized to do so by the individual on whose behalf the collection will be made, continue to collect such support payments from the absent parent and pay the net amount of any amount so collected to the family after deducting any costs incurred in making the collection from the amount of any recovery made.

"INCENTIVE PAYMENT TO LOCALITIES

"SEC. 458. (a) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collection of the support rights assigned under section 402(a)(26) (either within or outside of such State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of assistance to the family of the absent parent—

"(1) an amount equal to 25 per centum of any amount collected (and required to be distributed as provided in section 457 to

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reduce or repay assistance payments) which is attributable to the support obligation owed for 12 months; and

"(2) an amount equal to 10 per centum of any amount collected (and required to be distributed as provided in section 457 to reduce or repay assistance payments) which is attributable to the support obligation owed for any month after the first twelve months for which such collections are made.

"(b) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under paragraphs (1) and (2) of subsection (a) shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.

"CONSENT BY THE UNITED STATES TO GARNISHMENT AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS

"SEC. 459. Notwithstanding any other provision of law, effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States (including any agency or instrumentality thereof and any wholly owned Federal corporation) to any individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the United States were a private person, to legal process brought for the enforcement, against such individual of his legal obligations to provide child support or make alimony payments.

"CIVIL ACTIONS TO ENFORCE CHILD SUPPORT OBLIGATIONS

"SEC. 460. The district courts of the United States shall have jurisdiction, without regard to any amount in controversy, to hear and determine any civil action certified by the Secretary of Health, Education, and Welfare under section 452(a)(8) of this Act. A civil action under this section may be brought in any judicial district in which the claim arose, the plaintiff resides, or the defendant resides."

Collection of Child Support Obligations

(b)(1) Subchapter A of chapter 64 of the Internal Revenue Code of 1954 (relating to collection of taxes) is amended by adding at the end thereof the following new section:

"SEC. 6305. COLLECTION OF CERTAIN LIABILITY.

"(a) IN GENERAL.—Upon receiving a certification from the Secretary of Health, Education, and Welfare, under section 452(b) of the Social Security Act with respect to any individual, the Secretary or his delegate shall assess and collect the amount certified by the Secretary of Health, Education, and Welfare, in the same manner, with the same powers, and (except as provided in this section) subject to the same limitations as if such amount were a tax imposed by subtitle C the collection of which would be jeopardized by delay, except that—

"(1) no interest or penalties shall be assessed or collected,

"(2) for such purposes, paragraphs (4), (6), and (8) of section 6331(a) (relating to property exempt from levy) shall not apply,

"(3) there shall be exempt from levy so much of the salary, wages, or other income of an individual as is being withheld therefrom in garnishment pursuant to a judgment entered by a court of competent jurisdiction for the support of his minor children, and

"(4) in the case of the first assessment against an individual for delinquency under a court order against such individual for a particular person or persons, the collection shall be stayed for a period of 60 days immediately following notice and demand as described in section 6303.

"(b) REVIEW OF ASSESSMENTS AND COLLECTIONS.—No court of the United States, whether established under article I or article III of the Constitution, shall have jurisdiction of any action, whether legal or equitable, brought to restrain or review the assessment and collection of amounts by the Secretary or his delegate under subsection (a), nor shall any such assessment and collection be subject to review by the Secretary or his delegate in any proceeding. This subsection does not preclude any legal, equitable, or administrative action against the State by an individual in any State court or before any State agency to determine his liability for any amount assessed against him and collected, or to recover any such amount collected from him, under this section.".

(2) The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 6305. Collection of certain liability.".

Amendments to Part A of Title IV

(c)(1) Notwithstanding the provisions of section 402(a) of the Social Security Act, in addition to the amounts required to be disregarded under clause (8)(A) of such section, there is imposed the requirement (and the State plan shall be deemed to include the requirement) that for the 15 months beginning July 1, 1975, in making the determination under clause (7), the State agency shall with respect to any month in such year and in addition to the amounts required to be disregarded under clause (8)(A), disregard amounts payable under section 457(a)(1).

(2) Section 402(a)(9) is amended to read as follows:

"(9) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only to (A) public officials who require such information in connection with their official duties, or (B) other persons for purposes directly connected with the administration of aid to families with dependent children;".

(3) Section 402(a)(10) is amended by inserting immediately before "be furnished" the following: ", subject to paragraphs (25) and (26),".

(4) Section 402(a)(11) is amended to read as follows:

"(11) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection

agency (established pursuant to part D of this title) of the furnishing of aid to families with dependent children with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established);".

(5) Section 402(a) is further amended—

(A) by striking out "and" at the end of paragraph (23);

(B) by inserting immediately before the first word in paragraph (24) the following: "provide that"; and

(C) by striking out the period at the end of paragraph (24) and inserting in lieu thereof a semicolon and the following:

"(25) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of aid shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ in the administration of such plan;

"(26) provide that, as a condition of eligibility for aid, each applicant or recipient will be required—

"(A) to assign the State any rights to support from any other person such applicant may have (i) in his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and (ii) which have accrued at the time such assignment is executed,

"(B) to cooperate with the State (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for such applicant and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due such applicant or such child and that, if the relative with whom a child is living is found to be ineligible because of failure to comply with the requirements of subparagraphs (A) and (B) of this paragraph, any aid for which such child is eligible will be provided in the form of protective payments as described in section 406(b)(2) (without regard to subparagraphs (A) through (E) of such section); and

"(27) provide, that the States have in effect a plan approved under part D and operate a child support program in conformity with such plan.".

(6) (A) Section 403 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) Notwithstanding any other provision of this Act, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters beginning after December 31, 1976, be reduced by 5 per centum of such amount if such State is found by the Secretary as the result of the annual audit to have failed to have an effective program meeting the requirements of section 402(a)(27) in any fiscal year beginning after September 30, 1976 (but, in the case of the fiscal year beginning October 1, 1976, only considering the second, third, and fourth quarters thereof).".

(B) Section 404 of such Act is amended by adding at the end thereof the following new subsections:

"(c) No State shall be found, prior to January 1, 1977, to have failed substantially to comply with the requirements of section 402(a)(27) if, in the judgment of the Secretary, such State is making a good faith effort to implement the program required by such section.

"(d) After December 31, 1976, in the case of any State which is found to have failed substantially to comply with the requirements of section 402(a)(27), the reduction in any amount payable to such State required to be imposed under section 403(h) shall be imposed in lieu of any reduction, with respect to such failure, which would otherwise be required to be imposed under this section."

(7) Section 406 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding the provisions of subsection (b), the term 'aid to families with dependent children' does not mean payments with respect to a parent (or other individual whose needs such State determines should be considered in determining the need of the child or relative claiming aid under the plan of such State approved under this part) of a child who fails to cooperate with any agency or official of the State in obtaining such support payments for such child. Nothing in this subsection shall be construed to make an otherwise eligible child ineligible for protective payments because of the failure of such parent (or such other individual) to so cooperate.".

(8) Section 402(a), (17), (18), (21), and (22), and section 410 of such Act are repealed.

Conforming Amendments to Title XI

(d) Section 1106 of such Act is amended—

(1) by striking out the period at the end of the first sentence of subsection (a) and inserting in lieu thereof the following: "and except as provided in part D of title IV of this Act.";

(2) by adding at the end of subsection (b) the following new sentence: "Notwithstanding the preceding provisions of this subsection, requests for information made pursuant to the provisions of part D of title IV of this Act for the purpose of using Federal records for locating parents shall be complied with and the cost incurred in providing such information shall be paid for as provided in such part D of title IV."; and

(3) by striking out subsection (c).

Authorization of Appropriations

(e) There are authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary to plan and prepare for the implementation of the program established by this section.

Effective Date

(f) The amendments made by this section shall become effective on July 1, 1975, except that section 459 of the Social Security Act, as added by subsection (a) of this section shall become effective on January 1, 1975, and subsection (e) of this section shall become effective upon the date of enactment of this Act.

Approved January 4, 1975.